



## EMERGENCY TELEPHONE USERS SURCHARGE ANNOTATIONS



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**Access to Records**

There is no contradiction between Revenue and Taxation Code Section 41130, providing for Board access to telephone records, and a CPUC tariff rule which authorizes a phone company to release customer “calling records” only under specific circumstances, including in response to a subpoena duces tecum which is in compliance with Code of Civil Procedure Section 1985.3. While the Board may subpoena records pursuant to CCP 1985.3, as a state agency, the Board is not a “subpoenaing party” as defined and is therefore exempt from the customer notification requirements of Section 1985.3. 12/22/86. (Am 2003-1).

**Billing Agents**

Billing agents that coordinate the billing, collection and reporting of amounts due on behalf of a service supplier but are not themselves service suppliers are not required to be registered with the Board. 7/21/97.

**Constitutional Exemption—Job Corps Center**

Charges to a contractor, who is also the operator of a Job Corps Center, are exempt from the Emergency Telephone Users Surcharge, as exempt sales to the U.S. Government. If the contractor is not the operator but simply a supplier or a consultant, the exemption does not apply. 7/27/93.

**Insurance Company Exemption**

An insurance company obligated to pay the California gross premiums insurance tax is exempt under California Constitution Article XIII; Section 28 from the Emergency Telephone Users Surcharge. 2/19/90.

**Insurance Company—Exemption**

An insurance company owns a farm which is operated by a farm management company. Because the insurance company is contractually responsible for the monthly utility bills, telephone charges incurred by the farm management company acting on behalf of the insurance company are exempt from the Emergency Telephone Surcharge under the California Constitution Article XIII, Section 28. 3/25/96.

**Insurance Company—Shared Service Provider**

Although an insurance company is exempt from the surcharge as a result of a provision of the California Constitution, a shared service provider which contracts with an insurance company is not exempt because the shared service provider is the service user. 10/24/88.

**Interstate Access Charge Not Subject to 911 Surcharge**

The Interstate Access Charge, which is mandated by the Federal Communications Commission for interstate service, is not subject to the surcharge. 5/3/94, 7/25/94. (Am 2003-1).

**Los Angeles County Utility Users Tax Not Subject to 911 Surcharge**

The Los Angeles County Utility Users Tax is imposed directly by the county on the end user. Such taxes which are not imposed by the service supplier are not “charges for services” and therefore are not subject to the Emergency Telephone Users Surcharge; but the PUC fee reimbursement and the Lifeline surcharge and

the Deaf and Disabled surcharge are imposed on the service supplier and passed on to the service user as part of the “charges for services” under Revenue and Taxation Code Section 41011 and therefore would be subject to the 911 Surcharge. 7/13/94. (Am 2003-1).

#### **Out-of-State User—Charges for Services**

Section 41011 provides, in part, that charges for services shall not include charges for intrastate toll calls where bills for such calls originate out of California. This exemption applies only to intrastate calls made by an out-of-state user between two California locations when billed by the user’s out-of-state service supplier who bills the user’s out-of-state address, even if the service supplier was also engaged in business in California. The origination point of the bill for purposes of this exemption is not the location from which the service supplier sends or causes its billing notices to be sent to the service user, rather, it is the location of the out-of-state number to which the bill applies. This exemption does not apply to bills mailed from outside this state to California residents by a California service supplier. 1/18/84. (Am M99-1). (Am 2003-1).

#### **Proration of Flat Rate Service Charge**

Recurring flat rate service charges are subject to the Emergency Telephone Users Surcharge without proration by intrastate and interstate calls. 12/28/93.

#### **Public and Nonprofit School Exemption**

Section 41046 of the Revenue and Taxation Code provides an exemption from the surcharge for intrastate telecommunications of state and local government and nonprofit educational organizations exempt from Section 4253 of the Internal Revenue Code of 1954. Therefore, California public and other qualifying nonprofit schools are exempt from the surcharge. 11/8/93.

#### **PUC Fee**

The PUC fee and the Universal Telephone Service Tax (Moore Tax) are subject to the surcharge. 6/17/91.

#### **Service Supplier—Cellular Telephone Service—Out-collect Revenues**

Regulation 2406 requires the service supplier that provides the intrastate telephone communication to the user to collect and remit the 911 surcharge to the state. In the context of cellular telephone service, and pursuant to Rev. & Tax. Code Section 41021 and Regulations 2401 and 2406, the Board presumes that the home carrier is acting only as the “billing agent” of the host carrier, and that the host carrier that actually provides the service is responsible to collect and remit the surcharge to the Board. 6/3/98. (M99-1). (Am 2003-1).

#### **Service Supplier—Telemanagement or Shared User Services**

An entity which provides both shared use (or “telemanagement”) service and services subject to CPUC regulation must pay the surcharge only on charges provided “pursuant to California intrastate tariffs.” Shared user services are not provided pursuant to CPUC tariffs. Therefore, even if a provider qualifies as a “service supplier” for other services it provides, it is not liable for the surcharge on charges for non-tariffed services. 8/26/96.

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**Subscription Fees**

Subscription fees, which are monthly flat rate administrative fees imposed on users by the service carrier regardless of whether any calls are made by the customer, are mandatory charges imposed as a condition precedent to obtaining intrastate as well as interstate long distance services and are subject to the surcharge. 10/09/92.

**Universal Telephone Service Surcharge**

The Universal Telephone Service surcharge administered by the PUC is a state tax and is not excluded from the charges for services upon which the Emergency Telephone Users Surcharge is based. 4/20/88.

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Billing Service Company 8/31/88 .....	2003-1
Debit Cards 6/05/97 .....	2003-1
Debit Cards 5/21/97 .....	2003-1
Multiple Service Suppliers 10/23/90.....	M98-1
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Packet-Switching Network 6/27/88 .....	2003-1
Private Communication Service 9/08/92.....	2003-1
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